

REMARKS

Claims 1-12 are pending in the present application. Favorable consideration is respectfully requested.

Applicants hereby respectfully and provisionally elect Group II which the Office Action identifies with claims 4-7, 10 and 12, with traverse and without prejudice. Applicant notes that claims 1 and 11 are generic.

Applicant traverses this requirement for the following reasons. The Examiner is correct that this application, being a national stage application of a PCT application, must be examined under the PCT unity of invention rules. The pertinent rules are PCT rule 13.1 and 13.2, and 13.4. Applicant respectfully submits that the requirement is improper under PCT Rule 13.1. Further, Rule 13.4 does not appear to have been considered by the Examiner, and Applicant respectfully submits that Rule 13.4 compels withdrawal of the restriction requirement.

PCT Rule 13.1 states:

The international application shall relate to one invention only or to a group of inventions so linked as to form a single general inventive concept ("requirement of unity of invention").

PCT Rule 13.4 states:

Subject to Rule 13.1, it shall be permitted to include in the same international application a reasonable number of dependent claims, claiming specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention.

All of the claims said by the Examiner to be in different groups of invention are dependent claims. The independent claim from which they all depend is

claim 1, which is said to “not include the special technical features” of the individual groups, and is to be examined with the elected group. Under U.S. practice, claim 1 would be called a generic claim. Applicant respectfully submits that because each of the claims of each group is dependent from a generic claim, they are “linked so as to form a single general inventive concept.” Thus under Rule 13.1, even assuming that the Examiner’s contentions regarding the grouping of inventions are correct, claims 1-12 are correct, the claims satisfy Rule 13.1 as a group of claims so linked as to form a single inventive concept.

Moreover, Rule 13.4 allows a reasonable number of claims in dependent claims reciting specific forms of the invention claimed in an independent claim, even where the features of any dependent claim could be considered as constituting in themselves an invention. This is the case in Applicant’s application. There are 11 dependent claims. Each claims a specific form of one of the elements of generic claim 1. Certainly, 11 is not an unreasonable number of dependent claims.

Finally, there is no undue burden on the Examiner to examine all of the claims. To perform a complete search of the independent generic claim, the Examiner will have to search in all areas related to the various embodiments claimed in the specific dependent claims. Thus, since the search must already be inclusive of those areas, it does not overly burden the Examiner to examine all of the claims.

In sum, Applicant respectfully submits that the restriction is improper under the PCT rules of unity of invention 13.1 and 13.4. Further, it is not unduly burdensome for the Examiner to examine all 12 claims in this single application. For at least these reasons, Applicant requests reconsideration and withdrawal of the restriction requirement.

Appln. No. 10/572,581
Reply dated September 18, 2008
Reply to Office Action of August 18, 2008

Applicants believe that all issues raised in the official Action have been addressed, and applicants now respectfully await the receipt of the results of an examination on the merits.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.
Attorneys for Applicants

By /Ronni S. Jillions/
Ronni S. Jillions
Registration No. 31,979

RSJ:tdd

Telephone No.: (202) 628-5197

Facsimile No.: (202) 737-3528

G:\BN\R\rau\Ruhland2\Pto\2008-09-18RestrictResp.doc